

Agricultural Marketing Service, USDA

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AUTHORITY: 7 U.S.C. 1621–1627.

SOURCE: 36 FR 11795, June 19, 1971, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981.

Subpart A—Inspection and Grading of Egg Products

DEFINITIONS

§ 55.1 Meaning of words.

Under the regulations in this part words in the singular shall be deemed to import the plural and vice versa, as the case may demand.

§ 55.2 Terms defined.

For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively:

Act means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.), or any other Act of Congress conferring like authority.

Administrator means the Administrator of the Agricultural Marketing Service (AMS) of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

Applicant means any interested party who requests any grading or inspection service, or appeal grading or appeal inspection, with respect to any product.

Chief of the Grading Branch means the Chief of the Poultry Grading Branch, Poultry Division, Agricultural Marketing Service.

Class means any subdivision of a product based on essential physical

characteristics that differentiate between major groups of the same kind, species, or method of processing.

Condition means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability; or any condition, including, but not being limited to, the processing, handling, or packaging which affects such product.

Department means the U.S. Department of Agriculture.

Eggs of Current Production means shell eggs which have moved through the usual marketing channels since the time they were laid and are not in excess of 60 days old.

Holiday or *Legal holiday* shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, Title 5, of the United States Code.

Inspection/grading means (1) the act of determining, according to the regulations, the class, quality, quantity, or condition of any product by examining each unit thereof or a representative sample drawn by a grader; (2) the act of issuing a certificate; or (3) the act of identifying, when requested by the applicant, any product by means of official identification pursuant to the Act and this part.

Inspection and grading certificate or *certificate* means a statement, either written or printed, issued by a grader or inspector pursuant to the Act and this part, relative to the class, quality, quantity, and condition of products.

Inspector/grader means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the Act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

Interested party means any person financially interested in a transaction involving any grading, inspection, or appeal grading or inspection of any product.

National Supervisor means (1) the officer in charge of the service of AMS,

and (2) such other employee of AMS as may be designated by him.

Office of grading means the office of any grader or inspector.

Official plant means any plant in which the facilities and methods of operation therein have been found by the Administrator to be suitable and adequate for grading service or inspection in accordance with this part and in which such service is carried on.

Person means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

Product or *products* means eggs (whether liquid, frozen, or dried), egg products and any food product which is prepared or manufactured and contains eggs as an ingredient.

Quality means the inherent properties of any product which determine its relative degree of excellence.

Regional Director means any employee of the Department in charge of the service in a designated geographical area.

Regulations means the provisions in this part.

Sampling means the act of taking samples of any product for grading or inspection.

Secretary means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

Service means (1) any grading or inspection, in accordance with the Act and the regulations in this part, of any product, (2) supervision, in any official plant, of the preparation or packaging of any product, or (3) any appeal grading or appeal inspection of any previously graded or inspected product.

Shell eggs means the shell eggs of the domesticated chicken, turkey, duck, goose, and guinea.

[36 FR 11795, June 19, 1971, as amended at 36 FR 19301, Oct. 2, 1971; 37 FR 17816, Sept. 1, 1972. Redesignated at 42 FR 32514, June 27, 1977, and amended at 43 FR 60137, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 46069, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982]

§ 55.5 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) *Official certificate* means any form of certification, either written or printed, used under this part to certify with respect to the sampling, inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) *Official memorandum* means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part and any report made by an authorized person of services performed pursuant to this part.

(c) *Official mark* means the grade mark, inspection mark, and any other mark or symbol formulated pursuant to the regulations in this part, stating that the product was graded or inspected, or for the purpose of maintaining the identity of the product.

(d) *Official identification* means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product,

or affixed to or printed on the packaging material of any product.

(e) *Official device* means a printed label, or other method as approved by the Administrator for the purpose of applying any official mark or other identification to any product of the packaging material thereof.

ADMINISTRATION

§ 55.10 Authority.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act and this part. The Administrator is authorized to waive for a limited period any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part. The Agricultural Marketing Service and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

[42 FR 2969, Jan. 14, 1977. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981]

§ 55.11 Nondiscrimination.

The conduct of all services and the licensing of graders and inspectors under these regulations shall be accomplished without discrimination as to race, color, religion, sex, national origin, age or disability.

[40 FR 20055, May 8, 1975. Redesignated at 42 FR 32514, June 27, 1977, and at 46 FR 63203, Dec. 31, 1981; 60 FR 49168, Sept. 21, 1995]

GENERAL

§ 55.20 Kinds of services available.

The regulations in this part provide for the following kinds of services:

(a) Inspection of the processing of products containing eggs in official plants.

(b) Sampling of products.